**IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.**

Writ Petition No. 1028 (S/S) of 2006

1. Smt. Asha wife of Sri Jai Kishan.
2. Sri Sudhir son of Sri Ram Swaroop.
3. Sri Ram Bahadur son of Sri Babu.
4. Smt. Suman wife of Sri Ram Karan.
   All residents of Mohalla, Mahespura, Tehsil – Kashipur, District- Udham Singh Nagar.

**.....Petitioners**

Versus

1. Nagar Palika Parishad, Kashipur, District – Udham Singh Nagar through its Executive Officer.
2. Nideshak Shahari Evam Avas Nideshak, Uttaranchal Nideshalaya, Dehradun.
3. Secretary, Shahrai Evam Avas Nideshak, Uttaranchal Shashan, Dehradun.

**.....Respondents**

**Hon'ble M.M. Ghildiyal, J.**

Heard Sri Deep Chandra Joshi, learned counsel for the petitioners, Sri Pradeep Lohani, learned counsel for respondent no. 1 and Sri Paresh Tripathi, learned counsel for State of Uttaranchal on behalf of respondents no. 2 and 3

By means of this writ petition, petitioner has filed the present writ petition for the following reliefs:

*(a) issue a writ, order or direction in the nature of Mandamus Commanding the respondents to regularize the services of the petitioners on the post of Safai Karmachari at Nagar Palika Parishad, Kashipur, District – Udham Singh Nagar.*

*(b) issue a writ, order or direction in the nature of Mandamus commanding the respondents to place the names of the petitioners in the appropriate place as per their seniority in the list dated 07.09.2005*

(c) *any other order or direction, which this Hon'ble Court may deem fit and proper in the present circumstances of the case.*

(d) *award the cost of the petition to the petitioner.*

From the perusal of the record, it appears that earlier petitioners along with other persons have filed writ petition no. 6449 (SS) of 2001 and writ petition no. 6451 (SS) of 2001, which were disposed of by this court on 12.07.2005 with direction to the respondents to regularize the services of the petitioners strictly in accordance with the seniority of daily wages workers (provided they are still working on daily wages) subject to the availability of the vacant post.

The submission of learned counsel for the petitioners is that services of the petitioners have yet not been regularized as they were not working on the date of passing of order dated 12.07.2005

Petitioners have filed present writ petition with the same reliefs as has been filed earlier. Since the petitioners were not in service no order can be passed for regularization of petitioners' services. Neither petitioners are presently working nor petitioners can claim for regularization in view of Supreme Court's Judgement reported in 2006 (4) SCC 1 as the petitioners could not show that their appointment were made in accordance with Rules prevalent at the relevant time.

Writ petition lacks of merit, as such, is dismissed. No order as to costs.

**(M.M. Ghildiyal, J)**

July 31, 2006
SKSharma